The Practice of Slavery

Question:

1. Was slavery practised only after the coming of Rasulullaah ρ or before that as well? Please furnish a brief history of slavery.
2. Is a slave woman lawful for her master even without marriage? If so, then why? What is the wisdom behind this?
3. Can slave women be kept in today's times?
4. If a Muslim wants to keep a slave woman, must she be a Muslim or can he keep non-Muslims as well?
5. How many slaves did people keep in those times and how many can be kept today?
6. Is it necessary for slave women to observe *purdah*? If so, then why and if not, why not?
7. Are the children of slave women slaves or not?
8. Will slave women and their children inherit from the estate of their master?

Answer: The practice of slavery long preceded the time of Rasulullaah ρ. This was the result of war and therefore started with the advent of war. It was prevalent amongst almost every nation of the world. Initially, captives of war were mercilessly killed, but this was later replaced with the practice of slavery and only the very dangerous prisoners were killed. Weak men, women and children were forgiven, but kept as slaves.

Islaam did not oppose the practise because it would have been aimless to do so during those times when there was no concept of international law. The laws of one nation could not be applied to others during those times. Therefore, had Islaam forbidden slavery, other nations would have easily captured Muslims, taken them as slaves and humiliated them, while resting in peace that this would not happen to their comrades who were captured by the Muslims. Islaam therefore respected this practice in as far as it fostered humanitarian sympathy, but, at the same time, engineered certain laws by which the practice would stop by itself.

At the same time, however, Islaam forbade all unfair treatment of slavery. The following outlines some amendments Islaam made to the practice of slavery:

1. (Islaam forbade) Forcing slave women to be prostitutes. Allaah says: ***"do not force your slave women into prostitution when they wish to remain chaste"***[1]

2. (Islaam forbade) Preventing slaves from marrying for ulterior motives. Allaah says: ***"Get the unmarried ones among you married as well as those slave men and slave women who are righteous (and capable of fulfilling the rights of marriage)."***[2]

3. Whereas slaves were always treated like animals, Islaam taught Muslims" "Slaves are your brothers and sisters whom Allaah has placed in their custody. It was therefore necessary to feed them what you eat, to dress them in what you dress and to never give them more to do than they can manage. If need be to have

[1] Surah Noor, verse 33.
[2] Surah Noor, verse 32.

extra work done, you should assist them." Rasulullaah ρ said, "The person who is harsh with his slave will not enter Jannah." Another Hadith states, "Whoever hits his slave unjustly will be able to atone for it only by setting the slave free."

When someone asked Rasulullaah ρ how many times was he expected to overlook the mistakes of his slave, Rasulullaah ρ gave no reply. When he repeated the question three of four times, Rasulullaah ρ said, "Seventy times a day." Rasulullaah ρ meant to emphasise that masters must refrain from punishing their slaves. In fact, the last advice that Rasulullaah ρ gave before he passed away was, "Be regular with your salaah and be kind towards your slaves."

The effect of these teachings was that when Hadhrat Uthmaan τ once twisted his slave's ear for some reason, he at once regretted his act and insisted that the slave twist his ear in turn. The slave refused but when Hadhrat Uthmaan τ insisted even more, the slave did it. As he was doing so, Hadhrat Uthmaan τ said, "Twist even harder because I fear the punishment of Qiyaamah." There are many similar incidents and it would be too difficult to quote them all here.

4. Islaam attached great rewards to setting slaves free. Rasulullaah ρ mentioned that when a person freed a Muslim slave, a portion of his body equivalent to that of the slave's will be saved from Jahannam (the entire body). There are also great rewards attached to freeing a non-Muslim slave as well. Rasulullaah ρ said, "When a person educates his slave girl well, frees her and then married her, he will earn a double reward.

   Like these, there are many Ahadeeth also stating the same fact. It is as a result of this that thousands of slaves have been set free. Rasulullaah ρ himself set 63 slaves free, Hadhrat Abu Bakr τ set 63 slaves free, Hadhrat Uthmaan τ set 30000 (thirty thousand) slaves free, Hadhrat Hakeem bin Hizaam τ set 100 slaves free, Hadhrat Abbaas τ set 70 slaves free, Hadhrat Aa'isha رضي الله عنها set 69 slaves free, Hadhrat Abdullaah bin Umar τ set 1000 slaves free and Hadhrat Dhul Kalaah Himyari τ set eight thousand slaves free in a single day. Hadhrat Uthmaan τ used to free a slave every Friday and announced that he would set free any slave who performed salaah with humility.[3]

5. There are many situations in which Islaam has declared that slaves automatically become free. Some of these are:

   - When a slave comes into the ownership of his close relative such as any of his parents, children, aunts, uncles, brothers, sisters, etc.
   - When a Kaafir buys a Muslim slave from an Islaamic state and takes him to a *Daarul Harb* (a Kaafir country at war with the Muslims), the Muslim slave becomes free as soon as he enters the *Daarul Harb*.
   - When a child of her master's is born to a slave woman, she becomes free when her master dies.

6. There are instances when an injunction requires that a slave be set free or when it is encouraged to do so. Some of these are:

   - Freeing a slave is Kaffaarah (expiation) for manslaughter.
   - Freeing a slave is Kaffaarah for Zihaar.

[3] *Ar Riqq fil Islaam* (Vol.1 Pg.131).

- Freeing a slave is Kaffaarah for breaking an oath.
- Freeing a slave is Kaffaarah for breaking a fast
- Freeing the slave is Kaffaarah for slapping the same slave
- Slaves should be set free when a solar eclipse occurs
- Slaves should be set free when a lunar eclipse occurs
- Slaves should be set free to convey rewards to the deceased

Apart from the above, there are many instances where the setting free of slaves has been encouraged, thereby leading to a final abolishment of slavery.

THE PERIOD OF HADHRAT UMAR τ: Apart from what Rasulullaah ρ said and did during his time, many laws were passed by which thousands of slaves were freed and freedom of slaves was initiated to a greater degree. Some of these were:

1. He announced that all slaves taken at the time when the *Murtaddeen* were fought were to be set free.
2. He made a declaration stating that no Arab could be taken as a slave.[4]
3. He also declared that no Dhimmi could be taken as a slave.
4. Another declaration was that every person who was a slave during the Period of Ignorance and then passed through the Period of Islaam should pay their price to their masters and become free. This was regardless of whether the masters agreed or not.[5]

While it is necessary for every Muslim to know the injunctions of Deen, it is not necessary to know the wisdom behind these injunctions. It is not even necessary for every person to find out about these wisdoms. It is wrong to look for wisdom behind every injunction and practising on it need not be subject to knowing the wisdom. It is also wrong to regard the injunction as contrary to wisdom just because one does not understand the wisdom.

When rain once fell, a saint once asked "O Allaah! Why the rain now?" a voice addressed him saying, "Have We ever sent rain when it was necessary?" Realising that his statement was disrespectful, he fell down unconscious. There is no injunction of Deen that is without wisdom and there most certainly is wisdom in the fact that a slave woman becomes lawful for her master without marriage. How will we know such a thing? The verse of the Qur'aan suffices for us which states: ***"The knowledge you have been given is but very little."***[6] Had marriage been necessary between master and slave woman, there would have been much difficulty involved for the woman herself whereas the Deen intends ease for people. Allaah says, ***"Allaah intends ease for you and does not want difficulty for you."***[7] One can however be rest assured that there is no evil intent in the injunction and it holds only benefit for all involved.

The reason for marriage not being a requirement for a slave woman to become lawful for her master, **is that the Shari'ah has made ownership the substitute for marriage.** The Shari'ah regards intercourse to be legal between a couple when the proposal and acceptance of a marriage contract takes place. Similarly, the Shari'ah regards intercourse to be legal between a master and his slave woman when he takes ownership of her. There is therefore no doubt about the legality of the issue as far as the Shari'ah is concerned. It is also appropriate to point out that the

---

[4] *Futuhul Buldaan* pg316..
[5] *Ar Riqq fil Islaam, Fat'hul Baari, Nihaayah and others.*
[6] Surah Bani Israa'eel.
[7] Surah Baqara.

manner in which things are given recognition in the Shari'ah varies. For example, when it concerns the eating of goats, cows, birds and others, the Shari'ah stipulates that they will be Halaal only if they are slaughtered while reciting '*Bismillaah Allaahu Akbar*'. They will not be regarded as Halaal without slaughtering. However, in the case of fish, mere catching it and becoming is owner will make it Halaal for consumption. This therefore becomes the substitute for slaughtering. Whereas both are living creatures, the one requires slaughtering and the other not. Similarly, marriage is required for a free woman and ownership is its substitute in the case if a free woman. There is nothing contrary to logic in this.

As for the question of why it is not necessary to marry a slave woman before she becomes lawful for a master, it must be remembered that there really is no necessity for this in the first place. The real necessity for marriage is to make lawful something that was not lawful for a man previously. However, since the master has already purchased the slave woman and has become the owner of all of her body and associated rights, he has also become the owner of those rights that marriage harness. Marriage will therefore be futile (and really contrary to logic).

Another factor to consider is that Allaah says regarding marriage, "***other women are lawful for you*** *(to marry)*, *(provided)* ***that you seek*** *(their hands in marriage)* ***with your wealth*** *(by paying the dowry)*"[8] Now when someone other than the master marries the slave woman, the master will becomes the owner of the dowry because a slave cannot own anything. Now assuming that the master has to marry the slave woman and pay the dowry. Who will be the owner of the dowry? It is absurd to claim that the master will be both the payer and the recipient. Therefore, the stipulation of marriage between master and slave will entail mocking an injunction of Deen, which is that of the dowry. In this way as well, marriage will really be contrary to logic.

Because a slave woman is not deemed to be suitably compatible with any man, she will be estranged. The Shari'ah has therefore created this avenue for her by which she can attain some status when she gives birth to her master's child. His ownership over her will then diminish because he will then be unable to sell her. She will then live with him like a wife and will become free after he dies. She will then not become the property of his heirs and none has the right to sell her.

It is nearly impossible to find slaves in these times because the requisites for being a slave are not found. One can therefore not have a slave woman in these times. If there are slave women anywhere in the world, they cannot be regarded as slaves without a thorough investigation and they will therefore not be lawful for anyone without marriage. Allaama Shaami رحمه الله says, "The slave women taken as booty nowadays are not slaves at all because the booty is not distributed properly at all and leaves the worthy recipients without their rightful shares."

Slave women in the true sense are those women captured during a (proper) Jihaad and who become part of the booty, they will then be taken to the Muslim country and distributed to the soldiers by the Khalifah according to the principles of the Shari'ah. They will not be lawful for anyone until they are brought to the Muslim country and distributed by the Khalifah. In fact, even if the Khalifah or the commander of the army announces that any women captured by a soldier will

[8] Surah Nisaa, verse 24.

become the property of that soldier, such women will not become the slaves of those soldiers. Where are these laws in place today?

The rule of the Shari'ah states that everything captured from the enemy becomes booty and a fifth of it will belong to the Muslim state, to be deposited in the state treasury. This will go to needy Muslims such as orphans and widows. The remaining four fifths will be distributed amongst the soldiers who fought the battle. However, distribution will not be valid until the booty is brought to the Muslim country. As long as the distribution is not valid, the booty remains public property. Just as a woman becomes lawful for a man when her guardian hands her over in marriage, so too will a slave woman become lawful for a man when the Khalifah, who is her guardian, makes her over to the man and when certain other conditions are met. The master may then either keep her, sell her or give her away. A slave woman who becomes the property of an heir after the death of her master is also regarded as a slave and will be lawful for her new master.

Slave-women like this are not to be found anywhere. I can at least say that they are not to be found anywhere in India. A woman can be a slave regardless of which religion she follows to or which nation or creed she belongs. However, intimate relations are lawful with her only if she is a Muslim or belongs to the Ahlul Kitaab. No such relations are permitted with her if she is a Mushrik (idol worshipper).

There is no limit to the number of slaves a person may keep. If one can afford it, he may keep as many as he pleases. There are, however, many requirements that need to be fulfilled when keeping slave women and these have to be seen to. For example, a slave woman cannot be lawful for a man when she is his close relative such as his sister, aunt, etc.

Unlike free women, the Shari'ah has not ordained *purdah* for slave women because they are required to do work inside and out of the house.

The children born to slave women are regarded as free people if they are her master’s children[9]. While a slave woman will not inherit from her master, her children from him will. And Allaah knows best what is most correct.

---

[9] *Jawaahirun Nayyirah* (Vol.2 Pg.188).